

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suede G. Kelly.

Calpine Construction Finance Company, L.P.

Docket No. ER05-912-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued February 28, 2006)

1. On December 1, 2005, Calpine Construction Finance Company, L.P. (Calpine), filed an offer of settlement to resolve the above-captioned proceeding, which concerns the compensation Calpine is to receive from the Western Area Power Administration for Reactive Power Service from the Sutter Facility near Yuba City, California.<sup>1</sup> On December 9, 2005, Commission Trial Staff submitted comments in support of the settlement, and the Sacramento Municipal Utility District submitted comments stating that it does not object to the settlement. No other comments were received, and no party has requested any changes to the settlement or elected to contest the settlement. On January 19, 2006, the settlement was certified to the Commission as uncontested.

2. The subject settlement appears to be fair and reasonable and in the public interest and is hereby approved. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

3. The rate schedule submitted as part of the settlement is properly designated in compliance with Order No. 614, and is accepted for filing and made effective as set forth in the settlement. *See Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221, FERC Statutes & Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000).

4. This order terminates Docket No. ER05-912-000.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>1</sup> See *Calpine Construction Finance Co., L.P.*, 111 FERC ¶ 61,403 (2005), setting the matter for hearing and settlement judge procedures.

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KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it accepts for filing an agreement with an Explanatory Statement that provides, in relevant part: “The standard of review for changes to the Offer of Settlement proposed by a Party, a non-Party, or the Commission acting *sua sponte*, shall be the *Mobile-Sierra* “public interest” standard of review...”

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Suede G. Kelly